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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

JAN 13 1993

FCC - MAIL ROOM

In the Matter of

Expanded Interconnection with
Local Telephone Company Facilities

Amendment of the Part 69 Allocation
of General Support Facility Costs

)
) CC Docket No. 91-141
)
)

) CC Docket No. 92-222
)

TO: THE COMMISSION

COMMENTS OF THE
ILLINOIS COMMERCE COMMISSION

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January 12, 1993

**COMMENTS OF THE
ILLINOIS COMMERCE COMMISSION**

CC Docket 91-141; CC Docket 92-222

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Executive Summary

The Illinois Commerce Commission commends the FCC in its efforts to establish policy in the area of special access interconnection. The Illinois Commission has been dealing with the issues of local exchange competition since 1989 and welcomes a comprehensive, coordinated approach to establish public policy which this docket can afford.

The Illinois Commerce Commission believes that negotiated interconnection agreements have an appropriate place in interconnection policy and that the FCC should not mandate only one form or manner of interconnection in its rules. The Illinois Commerce Commission further believes that any contribution element that may be developed later in this proceeding be applied to all categories of interconnectors in order to ensure a "level playing field" in this market.

The safeguards and cost methodology requirements imposed upon dominant carriers through this rulemaking appear to adequately protect new market entrants from anti-competitive behavior on the part of those dominant carriers. Therefore, the Illinois Commission supports adoption of these requirements.

Finally, the Illinois Commerce Commission urges the FCC to act on the switched interconnection access issues in a timely manner and to carefully coordinate the policies developed in the Second Notice of Proposed Rulemaking in this docket and the

existing review of CC Docket 91-213, In the Matter of Transport Rate Structure and Pricing. Since switched access interconnection is a necessary prerequisite to the provision of switched access transport, the Illinois Commission believes it is essential these two docket proceed in tandem.

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COMMENTS OF THE
ILLINOIS COMMERCE COMMISSION

The Illinois Commerce Commission hereby submits its comments to the Federal Communications Commission ("FCC") In the Matter of Expanded Interconnection with Local Telephone Facilities, CC Docket No. 91-141 and Amendment of the Part 69 Allocation of General Support Facility Costs, CC Docket No. 92-222. The Illinois Commerce Commission ("Illinois Commission") is the state regulatory body charged with regulating investor-owned telecommunications carriers in Illinois. The Illinois Commission has an on-going interest in this proceeding as it has been dealing with the issues of local exchange competition and interconnection since 1989 when it granted Teleport Communications Group the authority to provide private line service within the Chicago area.

I. INTRODUCTION

In its original comments to the FCC in this matter, the Illinois Commission referenced the Optical Interconnection Service ("OIS"), which is a virtual collocation agreement between Illinois Bell Telephone Company ("Illinois Bell") and Teleport Communications Group. In approving the Third Interim Order in Illinois Docket 90-0425, the Illinois Commission established a process by which Teleport Communications Group (as well as any other interconnector who would agree to the stipulated agreement detailed in this Order) can request further local exchange interconnection within Illinois Bell's service area.¹

Since the time of the approval of this stipulated agreement in February, 1992, and the Illinois Commission's initial Comments in CC Docket 91-141 in August, 1991, there have been several other actions with regard to local exchange interconnection. In addition to approving the OIS agreement in Illinois Docket 90-0425, the Illinois Commission also directed its Staff to begin an inquiry into policy issues and further actions to be considered in the area of local competition and interconnection. On July 1, 1992, Staff submitted its report on local competition and interconnection to the Illinois Commission for consideration.²

¹ Illinois Commerce Commission On Its Own Motion, Investigation concerning access charges, the administration of the High Cost Fund, administration of the Illinois Small Exchange Carrier Association and other telecommunications issues, Illinois Docket 90-0425, Third Interim Order, Appendix , at par. 5.

² Local Competition and Interconnection, A Staff Report to the Illinois Commerce Commission, July 1, 1992.

Further, the Illinois Commission recently acted to establish a rulemaking to establish interconnection rules and standards for both special and switched access.³ The intent of this Commission-sponsored proceeding is to establish rules which will establish a uniform means by which certificated Competitive Access Providers ("CAPs") can seek interconnection. In addition, the resulting rules will spell out LEC rights and obligations in providing this interconnection. Knowledge gained through this rulemaking will also aid the Illinois Commission in its further comments to the FCC in both the special and switched access issues at the federal level.

The Illinois Commission has also approved several tariffs and certificates for additional interconnection services. With the approval of the OIS tariff, Teleport Communications Group, Inc. ("TCG") was accorded interconnection on a virtual collocation basis for all of the exchanges within Illinois Bell territory for which it was certificated. In addition, TCG subsidiaries have received Illinois Commission approval for the expansion of private line certification within the Illinois Bell

³ Illinois Commerce Commission On Its Own Motion, Development of a Statewide Policy Regarding Local Interconnection Standards, Illinois Docket 92-0398, approved October 21, 1992.

service area,⁴ and have been certificated to resell Illinois Bell services within specified local exchanges.⁵

Metropolitan Fiber Systems, Inc. ("MFS") is another company which has been active in local exchange interconnection in the Chicago area. Along with its original certification to provide private line service,⁶ MFS recently received authority to expand its private line service into additional Illinois Bell exchanges.⁷ MFS also successfully negotiated an actual collocation arrangement with Central Telephone Company ("Centel") which lead to the Centel Facility Interconnect Service ("CFIS").⁸ This is now a tariffed service within Centel's

⁴ Teleport Communications Chicago, Inc., Application to Amend its Certificate of Service Authority to Provide Direct Non-Switched Private Line Services and Resold Local Exchange Services in Designated Local Exchange Areas and to Provide Non-Switched Interexchange Services and Resold Interexchange Services in Market Service Area 1, Illinois Docket 91-0597, approved April 29, 1992.

⁵ TC Systems--Illinois, Inc., Application for a Certificate of Service Authority to Resell Local Exchange Services and Intra-MSA Interexchange Service Throughout Market Service Area 1, Illinois Docket 91-0598, approved September 16, 1992.

⁶ Chicago Fiber Optic Corporation d/b/a MFS of Chicago, Inc., Application for a Certificate of Exchange Service Authority to Provide and to Resell Dedicated Communications Services in the Chicago Market Service Area, Illinois Docket 90-0391, approved May 29, 1991.

⁷ Chicago Fiber Optic Corporation, d/b/a MFS of Chicago, Inc., Application for Amendment of Certificate of Service Authority to Permit Resale of all Exchange and Interexchange Services Authorized for Resale by Authorized Carriers in the Chicago Area, Illinois Docket 91-0557, approved June 24, 1992.

⁸ CFIS is offered under the provision of Central Telephone Company of Illinois Tariffs ILL.C.C. No. 6, Access Services.

service territories and available to any certificated interconnector.

The Illinois Commission would like to commend the FCC in considering the issues related to local competition and interconnection in such a timely manner. With activity proceeding at both the federal level and in Illinois, we are confident that policy regarding this new market can be coordinated and developed in such a way to provide for effective competition within the local exchange market. It is the hope of the Illinois Commission that the results of competition will include increased service options for Illinois consumers and lower communications costs for all Illinois citizens.

II. The FCC Should Consider Expanding Special Access Interconnection to Non-Tier 1 LECs.

In its initial comments in this matter, the Illinois Commission suggested that the FCC not be premature in limiting the potential for special access interconnection to the urban and suburban areas for the Tier 1 LECs. The Illinois Commission was encouraged by the FCC's determination in the Expanded Interconnection Order that the implementation of interconnection should not be limited to urban and suburban areas for Tier 1 LECs.⁹ The FCC correctly observed that it would be difficult

⁹ Expanded Interconnection with Local Telephone Company Facilities, CC Docket 91-141, and Amendment of the Part 69 Allocation of General Support Facility Cost, CC Docket 92-222, released Oct. 19, 1992, at par. 58 ("Expanded Interconnection Order").

for any regulatory body to set a standard to delineate areas exempt from expanded interconnection. The FCC was appropriately concerned about how this standard was to be set, whether on the basis of population, access lines, or some other measure. The FCC's primary concern dealt with the basis upon which the delineation would be quantified. There is a danger, if such a standard were embraced, that these limits would fall prey to political, rather than economic considerations and would not serve overall policy interests well.

In addition to including both urban/suburban and rural areas for Tier 1 LECs, the Illinois Commission would encourage the FCC to continue to consider expanded interconnection for non-Tier 1 LEC companies. As indicated in the Illinois Commission's initial comments in this docket, "[i]t is likely that the regulatory climate in a state has as much to do with a CAP's interest in establishing a competitive network as the size of the urban area. We do not see a good reason to limit expanded interconnection requirements to only the largest cities."¹⁰

The Illinois Commission would agree that, due to the nature of the market within which non-Tier 1 LECs operate, interconnection should be approached in a cautious manner. As the FCC observes, "a Tier 1 LEC's customer and geographic mix usually includes substantial numbers of mid-size businesses and

¹⁰ Illinois Commission Comments, Expanded Interconnection with Local Telephone Company Facilities, CC Docket 91-141, RM 7249, ENF-87-14, ("Illinois Commission's Initial Comments in CC Docket 91-141"), at pp.10-11.

residential customers in suburban areas--a source of potential revenue that is often not available to smaller LECs."¹¹ In addition, the Illinois Commission would agree that there may be differences in the regulatory treatment of small LECs as opposed to a larger Tier 1 LEC with regard to such matters as depreciation and rates of return. Care should be given in considering whether and when local exchange competition should be introduced in rural areas.

The Illinois Commission is also aware of research efforts within the industry to identify the factors which most contribute to the entry of CAPs into the local exchange market. In a recent presentation by Dr. Glen Woroch of GTE Labs at the Telecommunications Policy Research Conference held this past September, he described initial research efforts to discern the factors which most contribute to CAP entry into LEC markets. This type of research would appear to suggest that LECs see expanded interconnection as more than an urban/suburban phenomenon. In fact, they see more than their large metropolitan markets "at risk" of competitive entry and are attempting to identify these areas in order to target their company's efforts.

The Illinois Commission sees nothing wrong in the LECs studying the issue of competitive entry by CAPs. Rather, this is an intelligent step which any industrious company would undertake in order to retain its competitiveness and market share. What this research suggests further, however, is that there may be

¹¹ Expanded Interconnection Order, at par. 58.

rural areas that could benefit from the entrance of other market providers. With the entrance of CAPs into a rural local exchange market, services which are generally only available in urban areas could be made available. This can potentially increase a rural area's ability to enhance their economic development potential by attracting medium- and large-sized businesses to the area.

In summary, the Illinois Commission urges the FCC to continue to consider expanded interconnection for non-Tier 1 LECs. It is acknowledged that the ability of a non-Tier 1 LEC to respond to competitive entry, given past regulatory treatment by a state public utility commission in such areas as depreciation and allowed rate of return, may be different from Tier-1 LECs. It is the Illinois Commission's position that competitive entry by CAPs may still be possible, with the concomitant benefits accruing to businesses and consumers located in rural areas, and should not be discounted out-of-hand.

III. Rather Than Mandating Physical or Virtual Collocation, the Illinois Commission Recommends Serious Consideration Be Given to LECs Rights and Responsibilities and That LEC Choice Be Considered as a Viable Option.

As discussed in the Introduction, the Illinois Commission has faced increasing demand for local interconnection in the Chicago area since its initial comments in this proceeding in August, 1991.¹² In our initial comments, we supported the FCC's

¹² See pp. 2-5, supra.

conclusion that expanded interconnection criteria should be established for interstate special access.¹³ With the additional experience gained in the development of these interconnection arrangements, the Illinois Commission believes that mandating physical collocation may in reality remove a viable option for interconnectors and the LECs with whom they are interconnecting. The OIS arrangement between Illinois Bell and Teleport is a virtual collocation service that was mutually acceptable to both parties. The CFIS tariff is an actual collocation arrangement offered by Centel as a result of its negotiations with MFS.

The Illinois Commission is aware that the FCC has qualified its support of actual collocation with the statement that, "parties remain free, under our approach, to negotiate satisfactory virtual collocation arrangements if such arrangements are preferable to physical collocation from the view of both parties."¹⁴ The Illinois Commission recommends serious consideration be given to the rights and responsibilities of LECs and that LEC choice be fully considered as a viable option.¹⁵

¹³ Illinois Commission's Initial Comments in CC Docket 91-141, at p.6.

¹⁴ Expanded Interconnection Order, at par. 40.

¹⁵ The ICC notes that it filed a request for limited waiver of the February 16, 1993 physical collocation tariff filing deadline. That request seeks to have the physical collocation tariff filing deadline for Illinois Tier 1 LECs extended until November 30, 1993 to allow the ICC to complete its on-going rulemaking proceeding on state interconnection policy. See Illinois Commerce Commission Request for Limited Waiver, filed December 29, 1992.

IV. In the Event a Contribution Element is Applied to Interconnectors, the FCC Should Require that the Charge Apply to All Interconnectors.

In the Order, the FCC has determined that the parties entitled to expanded interconnection shall include CAPs, IXC's, end users, and any other entities.¹⁶ This policy is in agreement with the Illinois Commission's initial comments in this matter, and we continue to support this position.¹⁷ This open approach to special access interconnection is possible because of the additional decision which the FCC made in this Order with regard to a contribution charge.

Essentially, the FCC decided the record showed only one source of cost over-allocation and that was the Part 69 Separations process.¹⁸ In eliminating the support flow which special access services currently receives from the Separations process, the FCC is moving the price of special access more toward its real cost.

In its discussion of the contribution element, however, the FCC does not entirely discount a contribution element being levied upon interconnectors in the future. The FCC acknowledges that, " LECs' rates for various access services may reflect

¹⁶ Expanded Interconnection Order, at par.59.

¹⁷ Illinois Commission's Initial Comments in CC Docket 91-141, at pp. 9-10.

¹⁸ Expanded Interconnection Order, at par. 143.

certain regulatorily mandated support mechanisms designed to achieve social policy objectives."¹⁹

The Illinois Commission supports both sentiments expressed by the FCC in this Order, that the cost of a service should move closer to its cost and there is a regulatory obligation to approve rates which support the social policy objectives entrusted to us through our legislative statutes. If a contribution element of some amount is later determined to be in the public interest, the Illinois Commission would caution the FCC to ensure that the application of this contribution element be applied to all parties entitled to interconnection.

The Illinois Commission would reject the potential argument that "end users and other entities" be excluded from paying a contribution element because they are not traditionally thought of as access providers. If the contribution element is applied only to LECs, IXCs and CAPs, this would result in different rates for the same class of service. This situation would encourage "tariff shopping" on the part of consumers since end users and other entities could provide special access services to other parties at a lower rate than the LECs, IXCs and CAPs. These entities could potentially argue that they are only providing their own private network services through these interconnections and should not be treated in the same manner as LECs, IXCs and CAPs. In reality, it would be difficult for any regulatory body

¹⁹ Id., at par. 145.

to monitor that activity to ensure the accuracy of this statement.

Therefore, if a contribution element is developed later through this proceeding, it should be applied to all interconnectors in order to insure a true "level playing field" for special access interconnection as well as keeping the various regulatory bodies from playing the role of "interconnection police."

V. The Illinois Commission Supports the Efforts of the FCC to Provide a Rate Structure Which Will Promote Real Competition in Special Access Services.

In its original Notice of Proposed Rulemaking in this Docket, the FCC proposed two options for alternative special access rate structures; (1) new cost-based connection charges would be designed for interconnectors, but LECs would be allowed to retain their existing special access rate structures for their customers, or (2) the current LEC special access rate structure would be unbundled into two separate charges: a transmission charge paid only by LEC special access customers, and a connection charge paid by both LEC special access customers and interconnectors.²⁰

The FCC has decided to adopt a modified version of the first rate structure option. Several parties to this proceeding complained that disaggregating special access interconnection

²⁰ Expanded Interconnection Order, at par. 116.

into two separate elements would be administratively burdensome and confusing to customers.²¹ Supporters of the unbundling option, the Illinois Commission included, believed that a separation of elements is required to eliminate the inefficiencies and cross-subsidies built into the current rate structure.²²

In reviewing this Order, the Illinois Commission believes it can support the rate structure proposed by the FCC. There are additional safeguards proposed in the pricing of the special access interconnection rate that will make it difficult to continue the inefficiencies and cross-subsidies which concerned us. For example, the FCC has indicated it will, "require the LECs to develop and justify consistent methodologies for deriving the direct cost of providing similar types of new offerings, including expanded interconnection services covered by the connection charge rate elements."²³ The LECs will also be required to establish a cross-connect element that applies uniformly to both physical and virtual collocation.²⁴ Additionally, LECs will also be required to tariff a number of different connection charge subelements.²⁵ Taken together,

²¹ Expanded Interconnection Order, at par. 117.

²² Expanded Interconnection Order, at. par. 118.

²³ Id., at par 27.

²⁴ Id., at par. 121.

²⁵ Id.

these and other provisions of the proposed rate structure will make it difficult for the dominant LEC to price discriminate against the new entrants in the special access market since it will be easy to compare prices a LEC charges for the elements making up its unbundled special access interconnection offering with the prices that a LEC charges its customers for bundled services.

Given the safeguards which the FCC has applied to the method of pricing special access interconnection, the Illinois Commission supports the FCC's action in allowing LECs to offer volume and term discounts. The Illinois Commission would recommend, however, that the FCC remain watchful of volume and term discounts which are not based upon the efficiencies in costs gained by economies of scale, but instead based upon non-economic cost reduction to gain market share.²⁶

Finally, the Illinois Commission shares the FCC's concern regarding the possible anti-competitive behavior on the part of a dominant carrier. Certainly when a dominant carrier is confronted with new market entrants, it is not unusual for that carrier to do whatever it can to ensure it retains that market share. The safeguards and requirements outlined in this Order surely help mitigate against the possibility of anti-competitive behavior.²⁷ The Illinois Commission believes that, in concert

²⁶ Illinois Commission's Initial Comments in CC Docket 91-141, at pp. 12-13.

²⁷ Expanded Interconnection Order, at par. 263.

with the aforementioned safeguards as well as the existing dispute resolution process available to all parties at both the federal and state levels, the danger of anti-competitive behavior is significantly diminished. In addition, however, the FCC has ordered the seven Regional Bell Operating Companies and GTE to file reports that identify which parties are using expanded interconnection in their service territories.²⁸ These reports will provide regulators with valuable information on a national basis about the demand for special interconnection access services.

VI. Illinois Commission Comments on the FCC's Second Notice of Proposed Rulemaking With Regard to Switched Access Interconnection.

In both the Illinois Commission's initial comments in this docket as well as its comments in the CC Docket 78-72 regarding the "equal charge per unit of traffic" rule for local transport,²⁹ the Illinois Commission advocated that the FCC act quickly to establish expanded switched interconnection access to avoid uneconomic shifts away from switched access services.³⁰

The Illinois Commission concurs with the FCC's view that rules governing the provision of switched access interconnection

²⁸ Ib., at par. 263.

²⁹ Reply Comments of the Illinois Commerce Commission, MTS and WATS Market Structure, FCC CC Docket No. 78-72, Phase I, filed March 29, 1991.

³⁰ Illinois Commission's Initial Comments in CC Docket 91-141, p. 15.

must happen in concert with the FCC's further activity within CC Docket 91-213, In the Matter of Transport Rate Structure and Pricing. Since switched access interconnection is a necessary element required for other parties to provide switched transport, the coordinated movement of these two dockets is essential. The Illinois Commission emphasizes that, since action at the FCC level will probably be "mirrored" at the state level, it is essential the FCC act in a timely matter in resolving the issues in the Second Notice of Proposed Rulemaking in this docket.

VII. Conclusion

The Illinois Commission believes it is essential that the FCC act in a timely manner with regard to the issues in special access interconnection. The benefits of the competition fostered by the FCC's action in this docket can benefit rural as well as urban/suburban areas. Therefore, the FCC should consider extending these rules to non-Tier 1 LECs.

Illinois' experience with interconnection arrangements indicates that negotiated interconnection arrangements have an appropriate place in interconnection policy and the FCC should not mandate only one form of interconnection in its rules. In addition, any contribution element that may be devised in further proceedings should apply to all categories of interconnectors in order to ensure the "level playing field" in this market.

The safeguards and cost methodology requirements imposed

upon dominant carriers through this rulemaking appear to adequately protect new market entrants from anti-competitive behavior on the part of those dominant carriers.

The Illinois Commission would urge timely action on the switched access interconnection issues raised in this docket. Moreover, a close coordination is required between the policies developed in the Second Notice of Proposed Rulemaking in this docket and the existing review of CC Docket 91-213, In the Matter of Transport Rate Structure and Pricing.

WHEREFORE, the Illinois Commerce Commission respectfully requests the Federal Communications Commission to adopt expanded interconnection rules which are consistent with the foregoing comments.

Respectfully submitted,

The Illinois Commerce Commission

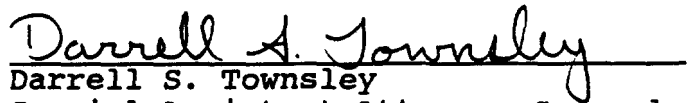
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January 12, 1993

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing comments of the Illinois Commerce Commission in CC Docket Nos. 91-141 and 92-222 has been served this 12th day of January, 1993, upon all known parties of record in this proceeding by first-class mail, postage prepaid.

Dated at Chicago, Illinois this 12th day of January 1993.


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